

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ANTHONY RAPP,

Plaintiff,

-against-

KEVIN SPACEY FOWLER a/k/a KEVIN SPACEY,

Defendant.

Case No. 1:20-cv-09586 (LAK) (SDA)

**NOTICE OF DEFENDANT'S MOTION *IN LIMINE* NO. 5 TO PRECLUDE PLAINTIFF  
FROM INTRODUCING OR REFERENCING CERTAIN IRRELEVANT EVIDENCE  
UNDER FRE 402 OR, ALTERNATIVELY, UNDER FRE 403 AND OTHER  
AUTHORITIES**

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Kevin Spacey Fowler a/k/a Kevin Spacey*

**TO THE COURT, PLAINTIFF, AND HIS ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that Defendant Kevin Spacey Fowler (“Mr. Fowler”) will and hereby does move this Court, before the United States District Judge Lewis A. Kaplan, in the United States District Court for the Southern District of New York, located in the Federal Courthouse, 500 Pearl Street, New York, NY 10007, on October 6, 2022, or a date to be set by the Court, for an order *in limine* to preclude plaintiff from introducing or referencing certain irrelevant evidence under FRE 402 or, alternatively, under FRE 403 and other authorities.

Under Federal Rule of Evidence 401-403, and other applicable law, Mr. Fowler brings this motion to preclude Plaintiff, his counsel, or witnesses from testifying about or referencing (1) dismissed plaintiff C.D., (2) statements from Sean Snow which would be disguised expert testimony or hearsay, (3) what Plaintiff would do with any monetary recovery in this case, (4) third-party witness Christopher Denny’s opinion about the means by which he was served with a deposition subpoena in this case, (5) any specific requests or issues in third-party witness Evan Lowenstein’s divorce or spousal support proceedings, (6) any rehab, medical, psychological or other treatment Mr. Fowler received, (7) any prior engagement of Elizabeth Loftus, Ph.D., in the event Plaintiff attempts to utilize her testimony, and (8) any information about Mr. Fowler’s financial condition or other evidence related only to punitive damages, absent a bifurcated second phase trial in the unlikely event it become necessary. These matters have no legitimate relevance to this case and any perceived relevance of these issues is greatly outweighed by the risk of unfair prejudice, confusing the issues, misleading the jury, undue delay, and wasting time.

The motion is based on this notice, the Memorandum of Points And Authorities filed with this notice of motion, the Declaration of Chase Scolnick filed with this motion and the exhibits to it, the pleadings, records, and files in this action, and upon any and all oral and documentary

evidence presented at or before any hearing on the motion.

Dated: September 26, 2022  
Irvine, California

Respectfully submitted,

/s/ Jennifer L. Keller

Jennifer L. Keller

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**CERTIFICATE OF SERVICE**

In accordance with Local Rule 5.2, I, Jennifer L. Keller, hereby certify that on September 26, 2022 this document filed through the ECF system will be sent electronically to the registered participants as identified in the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Jennifer L. Keller  
Jennifer L. Keller